

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 13

GATX LOGISTICS, INC.<sup>1</sup>

Employer

and

UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA (UE)

Petitioner

and

ALLIED PRODUCTION WORKERS UNION LOCAL #12, AFL-CIO

Intervenor

Case 13-RC-20264

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record<sup>2</sup> in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>3</sup>

3. The labor organization(s) involved claim(s) to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.<sup>4</sup>

5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:<sup>5</sup>

All production and maintenance employees, including coordinators, employed by the Employer at its facility currently located at 6600 River Road, Hodgkins, Illinois, excluding office clerical employees, plant clerical employees, data entry employees, professional employees, technical employees, outside truck drivers, guards, and supervisors as defined in the Act.

**DIRECTION OF ELECTION\***

An election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as

such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether they desire to be represented for collective bargaining purposes by United Electrical, Radio and Machine Workers of America (UE), by Allied Production Workers Union Local #12, AFL-CIO, or by neither organization.

#### LIST OF VOTERS

In order to insure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of the full names of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Company*, 394 U.S. 759 (1969); *North Macon Health Care Facility*, 315 NLRB 359, fn. 17 (1994). Accordingly, it is hereby directed that within 7 days of the date of this Decision 3 copies of an election eligibility list, containing the full names and addresses of all of the eligible voters, shall be filed by the Employer with the Regional Director who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in **Suite 800, 200 West Adams Street, Chicago, Illinois 60606** on or before March 22, 2000. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

#### RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the **Executive Secretary, Franklin Court Building, 1099-14th Street, N.W., Washington, D.C. 20570**. This request must be received by the Board in Washington by March 29, 2000.

**DATED** March 15, 2000 at Chicago, Illinois.

/s/Gail R. Moran  
Acting Regional Director, Region 13

\*/ The National Labor Relations Board provides the following rule with respect to the posting of election notices:

(a) Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. In elections involving mail ballots, the election shall be deemed to have commenced the day the ballots are deposited by the Regional Director in the mail. In all cases, the notices shall remain posted until the end of the election.

(b) The term "working day" shall mean an entire 24-hour period excluding Saturdays, Sundays, and holidays.

(c) A party shall be estopped from objection to nonposting of notices if it is responsible for the nonposting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Director at least 5 working days prior to the commencement of the election that it has not received copies of the election notice.

1/ The names of the parties appear as amended at the hearing.

2/ The arguments advanced by the parties at the hearing and by the Employer and the Petitioner in their briefs have been carefully considered. The Intervenor has not filed a brief.

3/ The Employer is a corporation engaged in operating a warehouse and distribution center for locomotive material.

4/ The Intervenor filed a motion to dismiss the instant petition, which motion was referred to me for ruling. The Intervenor contends that the petition should be dismissed because of unremedied unfair labor practices in Cases 13-CA-38338 and 13-CA-38365 that predated the filing of the petition. However, on February 11, 2000, the charge in Case 13-CA-38338 was dismissed because further proceedings would not effectuate the purposes and policies of the Act, and on March 14, 2000, the charge in Case 13-CA-38365 was also dismissed. Accordingly, I find that under the circumstances there are no pending unfair labor practice charges that would warrant the dismissal of the petition, and the Intervenor's motion is therefore denied.

5/ The Petitioner seeks to represent a unit of all production and maintenance employees employed by the Employer at its facility currently located at 6600 River Road, Hodgkins, Illinois, excluding office clerical employees, plant clerical employees, data entry employees, professional employees, technical employees, outside truck drivers, guards, and supervisors as defined in the Act. There are approximately 130 employees in the petitioned-for unit. At issue is whether the position of Coordinator is a supervisory position within the meaning of Section 2(11) of the Act and should therefore be excluded from the bargaining unit. The Employer contends that Coordinators are supervisors and should be excluded from the unit; both the Petitioner and the Intervenor claim that Coordinators are not statutory supervisors and should be included in the unit.

### *Facts*

The Employer is a corporation engaged in operating a warehouse and distribution center for locomotive material in Hodgkins, Illinois. The Hodgkins facility receives, inspects, houses, and packs materials for Electromotive Division for eventual redistribution to Electromotive Division's customers. The Employer handles materials ranging from nuts and bolts to crankshafts and motors, assembling some of those materials into "kits" for its customers and shipping them both domestically and internationally.

The Employer utilizes "Coordinators" in the following departments at its Hodgkins facility: Auditing, Export and L XO (international shipping), Floor Storage (storage of larger components), Inspection, Kitting (assembly of component kits), Packaging, Racks and Bins (storage of smaller components), UTEX (Unit Exchange Material) and Receiving (shipping and receiving), and Warehouse. While the duties of employees in these different departments may vary in some respects, the parties stipulated at the hearing that the testimony of Manuel Arreola, a Coordinator in the Receiving Department, was representative of the testimony that other coordinators would give.

Coordinators are responsible for ensuring that the work in their department is performed properly and in a timely fashion. They help to train new employees, following

written work instructions in doing so, and inspect the work of some new employees. Well-established procedures and fairly detailed, written work instructions govern the performance of the jobs overseen by the Coordinators.

Coordinators work alongside other production employees in their respective departments. For example, Arreola spends a substantial portion of his time performing the Forklift Driver and Verifier functions in the Receiving Department. (Verifiers check incoming shipments of materials and their accompanying shipping bills to make certain that the materials belong to the Employer and that the proper materials were shipped.) The amount of time Coordinators spend doing such work varies depending upon the work load on a given day.

Coordinators are in frequent contact—up to three hours a day—with Supervisors, who oversee the operation of their departments. Coordinators, unlike Supervisors, are hourly employees; their benefits are the same as other hourly employees, aside from a \$1.00 per hour wage premium. Coordinators are included in the bargaining unit represented by the Intervenor; the wage premium is pursuant to the collective-bargaining agreement between the Intervenor and the Employer.

Situations arise regularly that are not covered by the employer's regular procedures. In Receiving, for example, a "hot load" may come in that requires moving material directly to a certain department immediately upon a truck's arrival. On many occasions when such a situation arises, the Supervisor notifies the Coordinators, and the Coordinators assign employees to handle the hot load. When more complex, less routine situations arise, Supervisors, rather than Coordinators, generally decide the proper course of action.

In overseeing production employees' work, Coordinators do not keep employees' time records or assign overtime, and they do not issue warnings or other discipline. Additionally, Arreola testified that he had never hired, fired, promoted, laid off, or called back to work any employee, nor had he authorized time off, vacation, overtime, or leave for any employee. If an employee is not performing well, the Coordinator notifies a Supervisor, who conducts an independent investigation before issuing any discipline.

Coordinators assign work, for example deciding which forklift driver will work on moving a certain load. The record is unclear as to what criteria the Coordinators employ in making such work assignments, other than that Coordinators in Receiving generally assign "the closest guy there" to move materials that have been on the receiving dock too long.

As a general rule, Coordinators do not interact with the Employer's vendors or customers, although some Coordinators occasionally respond to routine customer inquiries, for example in locating for a customer a specific part within the facility.

While one Coordinator in the Packaging Department is temporarily serving as Acting Supervisor, Managers or other Supervisors, rather than Coordinators, typically fill in for absent Supervisors.

New employees are hired through an employment agency and are eligible to become permanent employees only after a forty-five day probationary period. Coordinators do not participate in new employee interviews or make hiring decisions. Supervisors, who ultimately decide whether permanently to hire a temporary employee, sometimes seek the input of Coordinators as to the temporary employees' work performance. While Coordinators routinely furnish Supervisors with information about

job performance, the evidence suggests that Supervisors disregard the Coordinator's assessment of a temporary employee at least as often as they follow the Coordinator's assessment. Supervisors have opportunities throughout the workday to independently observe probationary employees at work.

### *Analysis*

Employees are considered supervisors within the meaning of Section 2(11) of the Act if they have "authority in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action," if the exercise of that authority requires exercising independent judgment rather than merely performing routine or clerical tasks. An employee need exercise only one of these abilities to be considered a supervisor. *Davis Mem'l Goodwill Indus.*, 318 NLRB 1044, 1048 (1995); *Browne of Houston*, 280 NLRB 1222, 1223 (1986). The burden of demonstrating supervisory status upon the party asserting that status. *Fleming Cos.*, 330 NLRB No. 32 at 1 n.1 (1999); *Bennett Indus.*, 313 NLRB 1363, 1364 (1994).

In the present case, the Employer admits and the record demonstrates that Coordinators do not hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or adjust their grievances. The Employer contends that Coordinators both responsibly direct employees and effectively recommend the hiring of new employees. However, I find that the Employer has not sustained its burden of demonstrating that Coordinators exercise either of these indicia of supervisory status.

While Coordinators do make work assignments, they do not appear to exercise independent judgment in doing so. Employees' tasks—and many Coordinators' tasks—are routine and well-defined by written work rules; Coordinators simply assign employees work according to their availability. *SDI Open Partners L.P.*, 321 NLRB 111 (1996); *Clark Machine Corp.*, 308 NLRB 555 (1992) (no supervisory status in cases where assignment of work is routine). Coordinators resolve routine problems and anomalies experienced by employees, but complex problems are left to supervisors. No evidence suggests that Coordinators' "supervision" of employees extends beyond making certain that their work is completed, *Esco Corp.*, 298 NLRB 837 (1990), and no evidence suggests that the limited training performed by the Coordinators requires more than the knowledge and skill necessary to perform in the job classification being trained for. *North Shore Weeklies, Inc.*, 317 NLRB 1128 (1995). In short, the Employer has produced insufficient evidence that Coordinators are distinguishable from other lead workers whose "assignment and direction of employees in connection with the loading and unloading of trucks, and in connection with the storing of goods, is generally routine in nature" and not supervisory within the meaning of the Act. *Millard Refrigeration Servs.*, 326 NLRB No. 156 at 2 (1998). Accordingly, I find that Coordinators do not responsibly direct employees.

A party does not meet its burden of proving that an employee effectively recommends hiring simply by showing that the employer solicits the employee's opinions; it must demonstrate the effectiveness of the employee's input. *Consolidated Servs.*, 321 NLRB 845 (1996); *Brown & Root, Inc.*, 314 NLRB 19 (1994). In the present case, while the Employer may ask Coordinators for information on temporary employees'

work performance in making hiring decisions, it does not always seek their opinions about whether employees should be hired. Moreover, there is no evidence suggesting that the Employer routinely, let alone formally, incorporates Coordinators' informal recommendations into its decision-making process. Because Coordinators play only a tangential role in the hiring process, evidence that the Employer's hiring decisions sometimes accord with Coordinators' recommendations does not, by itself, suffice to meet the Employer's evidentiary burden. *International Center for Integrative Studies/The Door*, 297 NLRB 601 (1996); *Brown & Root*, 314 NLRB at 19. I find, therefore, that Coordinators do not effectively recommend the hiring of employees.

Because they exercise none of the indicia of supervisory status in Section 2(11) of the Act, I find that the Coordinators are not supervisors and are included in the bargaining unit.

177-8520-1600; 177-8520-2400; 177-8520-3200;  
177-8540-4200; 177-8560-1500; 177-8560-4000;  
177-8560-5000; 177-8560-9000; 177-8580-4200